



22 MAY 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

In re Application of	:	
PARK	:	
PCT No.: PCT/KR05/00360	:	DECISION ON PETITION
Application No.: 10/597,607	:	
Int. Filing Date: 05 February 2005	:	UNDER 37 CFR 1.181
Priority Date: 05 February 2004	:	
Atty. Docket No.: 20506/0205263-US0	:	
For: III-NITRIDE COMPOUND SEMICONDUCTOR	:	
LIGHT EMITTING DEVICE	:	

This is a decision on applicant's "PETITION UNDER 37 C.F.R. 1.182" filed on 12 May 2009 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 05 February 2005, applicant filed international application PCT/KR05/00360 which claimed priority to an earlier application filed 04 February 2004. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 18 August 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 August 2006.

On 01 August 2006, applicant filed a transmittal letter for entry into the U.S. National stage which included payment of the U.S. basic national fee.

On 03 August 2006, applicant filed a second transmittal letter for entry into the U.S. National stage accompanied by an executed declaration of the inventor and payment of all remaining fees. Applicant did not include an express request to begin national examination procedures.

On 25 March 2008, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a date of receipt of 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements of 01 August 2006 and a completion date of all 35 U.S.C. 371 requirements of 05 August 2006. The accompanying official filing receipt listed the filing or 371(c) date as 01 August 2006 and the international filing date of international application PCT/KR05/00360 as 05 March 2005.

On 20 February 2009, applicant was mailed a corrected official filing receipt which corrected the international filing date of PCT/KR05/00360 to 05 February 2009.

On 12 May 2009, applicant filed the present petition for a corrected filing receipt and Form PCT/DO/EO/903 seeking a 371 filing date of 03 August 2006 and correcting of the international filing date.

DISCUSSION

As noted above, the international filing date for the underlying international application has been corrected to 05 February 2005 as reflected in the corrected official filing receipt mailed 20 February 2009. As to the 371 (c) date, the best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the electronic filing receipt from the filing of 03 August 2006 showing the filing of the executed declaration, the last of the 35 U.S.C. 371 requirements, on that date.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 05 February 2005 under 35 U.S.C. 363 and will be given a date of **03 August 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 25 March 2008 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459